



**APPENDIX A****CONSTITUTION OF ARKANSAS****AMENDMENT NO. 73**

(Adopted Nov. 3, 1992)

**PREAMBLE:**

The people of Arkansas find and declare that elected officials who remain in office too long become preoccupied with reelection and ignore their duties as representatives of the people. Entrenched incumbency has reduced voter participation and has led to an electoral system that is less free, less competitive, and less representative than the system established by the Founding Fathers. Therefore, the people of Arkansas, exercising their reserved powers, herein limit the terms of elected officials.

**SECTION 1—Executive Branch**

(a) The Executive Department of this State shall consist of a Governor, Lieutenant Governor, Secretary of State, Treasurer of State, Auditor of State, Attorney General, and Commissioner of State Lands, all of whom shall keep their offices at the seat of government, and hold their offices for the term of four years, and until their successors are elected and qualified.

(b) No elected officials of the Executive Department of this State may serve in the same office more than two such four year terms.

**SECTION 2—Legislative Branch**

(a) The Arkansas House of Representatives shall consist of members to be chosen every second year by the qualified electors of the several counties. No member of the Arkansas House of Representatives may serve more than three such two years terms.

(b) The Arkansas Senate shall consist of members to be chosen every four years by the qualified electors of the several districts. No member of the Arkansas Senate may serve more than two such four year terms.

### SECTION 3—Congressional Delegation

(a) Any person having been elected to three or more terms as a member of the United States House of Representatives from Arkansas shall not be certified as a candidate and shall not be eligible to have his/her name placed on the ballot for election to the United States House of Representatives from Arkansas.

(b) Any person having been elected to two or more terms as a member of the United States Senate from Arkansas shall not be certified as a candidate and shall not be eligible to have his/her name placed on the ballot for election to the United States Senate from Arkansas.

### SECTION 4—Severability.

The provisions of this Amendment are severable, and if any should be held invalid, the remainder shall stand.

### SECTION 5—Provisions Self-Executing

Provisions of this Amendment shall be self-executing.

### SECTION 6—Application

(a) This Amendment to the Arkansas Constitution shall take effect and be in operation on January 1, 1993, and its provisions shall be applicable to all persons thereafter seeking election to the offices specified in this Amendment.

(b) All laws and constitutional provisions which conflict with this Amendment are hereby repealed to the extent that they conflict with this amendment.

## APPENDIX B

## CONSTITUTIONAL PROVISIONS

The Constitution of the United States provides in part:

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## ARTICLE I

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SECTION 2. The House of Representatives shall be composed of Members chosen every second year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty-five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

\* \* \* \*

SECTION 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.

\* \* \* \*

No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

\* \* \* \*

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust, or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment, and Punishment, according to Law.



**SECTION 4.** The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

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**SECTION 5.** Each House shall be the Judge of the Elections, Returns, and Qualifications of its own Members . . . .

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**SECTION 6.**

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. . . [N]o person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

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**SECTION 10.** No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing its inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

No State shall, without the Consent of Congress, lay any duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War,

unless actually invaded, or in such imminent Danger as will not admit of delay.

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## ARTICLE II

SECTION 1. The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice-President, chosen for the same Term, be elected, as follows:

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

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## ARTICLE IV

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SECTION 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

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## ARTICLE VI

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The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

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## AMENDMENT I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

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## AMENDMENT X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

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## AMENDMENT XIV

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

\* \* \* \*

SECTION 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

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SECTION 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

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#### AMENDMENT XVII

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures. . . .

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#### AMENDMENT XIX

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

Congress shall have power to enforce this article by appropriate legislation.

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#### AMENDMENT XXII

SECTION 1. No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. . . .

## APPENDIX C

## EARLY STATE LAWS—CONGRESS

## Connecticut

Connecticut Resolution of October 9, 1788, provided:

Whereas the United States in Congress Assembled on the thirteenth Day of September last Resolved that the first Wednesday of March next be the Time, and the present Seat of Congress the Place for commencing Proceedings under the Constitution for the United States lately adopted, by which it has become necessary that the People of this State, elect Representatives, to attend said Congress, pursuant to the second Section of the first Article of said Constitution.

Resolved by this Assembly that to effect an Election of Representatives of the People of this State to attend the Congress of the United States on said first Wednesday of March next, the Constables of the several Towns in this State, shall warn the Freemen of their respective Towns to meet at the usual places of holding Freemens Meetings at ten oClock in the Morning of Monday the tenth Day of November next, which warning shall be given by fixing upon the public Sign Post in each Society of the several Towns a written notification signed by one or more of the Constables specifying the Time Place and Business of said Meeting at least eight Days before the Time of holding the same;

And the Freemen thus convened shall each give his Votes or Suffrages for a number not exceeding twelve Persons whom he Judges Qualified to stand in nomination for Representatives of the People of this State to the Congress of the United States; for which no Person is eligible unless he has arrived to the Age of twenty five Years has been an Inhabitant



of the United States seven Years, and at the Time of Election is an Inhabitant of this State.

\* \* \*

. . . And the twelve Persons who have the greatest number of Votes, shall stand in the nomination for Representatives of the People in Congress; which Persons so nominated said Committee shall Certify accordingly, and shall procure a sufficient number of such Nominations with their Certificate on each to be printed and shall lodge one with the Secretary of this State for Record.

And said Committee shall forthwith transmit as many of said Printed Nominations as there are Towns in this State to the Sheriffs in the several Counties directed in Writing to an Assistant Justice of the Peace or Constable of each Town; which Nominations the Sheriffs in their respective Counties shall leave with the Persons to whom directed, or at their usual Places of Abode, before or in the thirteenth Day of Decemb [*sic*] next,

And the Constables of every Town shall warn a Meeting of the Freemen of such Town respectively in the same manner in every respect that is specified in this Act for warning Meetings to Vote for Nomination, to meet at ten oClock in the morning of Monday the twenty second Day of December next, when and where each Freeman shall give his Vote or Suffrage for a number not exceeding five Persons whose Names are Contained in said Nomination, to be Representatives of the People of this State in the Congress of the United States . . . . And the Assistant Justice or Constable receiving said Votes shall conduct with them in the same manner as is directed in this Act relative to the Votes for Nomination excepting that the Certificates of these Votes shall be sent by one of the Deputies to the General Assembly to be holden at the City of New Haven by Adjourn-

ment on the first Day of January next; which Assembly shall receive Sort and Count said Votes in such manner as they shall Judge proper, and declare the five Persons in said Nomination who have the greatest number of Votes to be Representatives for the People of this State to attend the Congress of the United States, for two Years pursuant to said Constitution . . . .

Connecticut Act of Jan. 1, 1789, provided:

An Act for regulating the Election of Senators and Representatives, for this State, in the Congress of the United States.

*Be it enacted by the Governor, Council, and Representatives, in General Court assembled, and by the Authority of the same . . .*

*And be it further enacted by the Authority aforesaid, That the Freemen of the several Towns in this State, at the Freemen's Meeting in April, in the Year of our Lord 1790, and once in two Years thereafter, at the Freemen's Meeting in April, immediately after giving in their Votes for the Officers of Government, shall each give in his Vote or Suffrage for twelve Persons, such as he judges qualified, to stand in Nomination, for Election in the Month of October, then next following, as Representatives of the People of this State, in the Congress of the United States, their Names being fairly written on a Piece of Paper, to the Person who by Law presides in said Meeting; who shall in the Presence of the Freemen, make Entry of all such Persons as the Freemen shall vote for, and the Number of Votes for each; and lodge the same in the Town Clerk's Office, of the Town to which he belongs, and transmit a Copy under his Hand and Office, sealed up, to the General Assembly in May, then next following, by one of the Representatives of such Town; at which Assembly, the Votes of the Freemen shall be counted: And*

the twelve Persons who have the greatest Number of Votes, shall be the Persons whose Names shall be returned to the several Towns, to stand in the Nomination aforesaid.

And the Freemen to the several Towns in this State, at the Freemen's Meeting in September, then next following, immediately after the Votes of the Freemen, for Persons to stand in Nomination as Assistants, are given in shall each of them give in his Vote, for a Number of Persons contained in said Nomination, for Representatives in Congress, not exceeding Five, to the same Person presiding, and in the same Manner; and the Person authorized to receive said Votes, shall proceed with, transmit, and deliver said Votes, to such Persons as are appointed to receive them, at the General Assembly, in October the next following, in the same Manner as by Law is prescribed, relative to the Election of Assistants in April annually; which Assembly shall count the said Votes of the Freemen, and the five Persons who shall have the greatest Number of Votes, shall be declared to be chosen Representatives of the People of this State, in the Congress of the United States.

And no Person shall be Representative as aforesaid, who shall not have arrived to the Age of Twenty-five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of this State. . . .

### **Delaware**

Delaware Act of Oct. 28, 1788, provided:

In the Thirteenth Year of the Independence of the Delaware State, An Act directing the time, Places, and Manner of holding an Election for a Representative of this State in the Congress of the United States, and for appointing Electors, on the part of this State,

for Choosing a President and Vice President of the United States,

\* \* \*

AND BE IT ENACTED, that every person coming to vote for a Representative and Electors, agreeably to the said constitution and the Directions of this Act, shall deliver in writing on one ticket or piece of paper, the names of two persons, one of whom at least shall not be an inhabitant of the same county with themselves, to be voted for as Representative, and one other person to be voted for as one of the Electors, for the purposes in the said Constitution mentioned which said Elector shall be an inhabitant of the same county in which he shall be voted for. . . .

. . . [A]nd the said President or Commander in chief shall thereupon declare, by proclamation the name of the person highest in vote, and therefore duly elected as Representative of and for this State in the Congress of the United States, and also the names of the three Persons who shall be highest in vote among those voted for as Electors, and therefore duly elected Electors agreeably to the constitution aforesaid; . . .

### **Massachusetts**

Massachusetts Resolve of Nov. 19, 1788, ch. 49, provided:

Resolve for organizing the Federal Government.

*November 19, 1788.*

*Resolved*, That the Commonwealth be divided into eight districts, for the purpose of choosing eight persons to represent the people thereof, in the Congress of the United States, each district to choose one Representative, who shall be an inhabitant of such district, and that the districts be as follows, viz. . . .



## Virginia

Virginia Act of Nov. 20, 1788, ch. II, provided:

*An ACT for the Election of REPRESENTATIVES  
pursuant to the Constitution of Government  
of the United States.*

[Passed the 20th of NOVEMBER, 1788.]

SECTION I. . . . WHEREAS, it is provided by the said Constitution, that until the enumeration therein directed shall be taken, *Virginia* shall be entitled to ten Members in the House of Representatives, and that the times, places, and manner of holding elections for the same, shall be prescribed by the Legislature: *BE it therefore enacted by the General Assembly, . . .*

SECT II. THAT the persons qualified by law to vote for members to the House of Delegates, in each county composing a district, shall assemble at their respective county court-houses on the second day in *February* next, and then and there vote for some discreet and proper person, being a freeholder, and who shall have been a *bona fide* resident for twelve months within such district, as a member to the House of Representatives for the United States. . . .

Virginia Act of December 26, 1792, ch. 1, provided:

*An ACT for arranging the Counties of this Commonwealth into Districts to choose Representatives to Congress. . . .*

SEC. II. *AND be it further enacted*, That the persons qualified by law to vote for members to the House of Delegates in each county and corporation composing a district, shall assemble at their respective county court-houses, on the third Monday in March next, and also on the third Monday in March in every second year thereafter, and then and there vote for some discreet and proper person, being a freeholder and resident within such district, as a member of the House of Representatives for the United States.



**New Jersey**

New Jersey Act of November 21, 1788, ch. 241, provided:

An ACT for carrying into Effect, on the Part of the State of New Jersey, the Constitution of the United States, assented to, ratified and confirmed by this State, on the eighteenth Day of December, in the Year of our LORD One Thousand Seven Hundred and Eighty-seven.

WHEREAS, the good People of this State, on the said eighteenth Day of December, in and by a Convention of Delegates chosen by the Citizens thereof, agreeably to an Act of the Legislature for that Purpose made and provided, did, on the Part of this State assent to, ratify and confirm, a Constitution for the United States, agreed to and recommended, in the Name of the People of the United States, by the unanimous Consent of the said United States in Convention assembled at Philadelphia on the seventeenth Day of September, in the said Year of our LORD One Thousand Seven Hundred and Eighty-seven: AND WHEREAS, in and by the said Constitution, it is, among other Things, provided and directed, . . .

That the Times, Places and Manner, of holding Elections for Senator, and Representatives shall be prescribed in each State by the Legislature thereof . . .

*Sect. I. BE IT ENACTED by the Council and General Assembly of this State, and it is hereby Enacted by the Authority of the same, That it shall and may be lawful for every Inhabitant of this State, who is or shall be qualified to vote for Members of the State Legislature, to nominate four Candidates to the Choice of the People, as Representatives in the said Congress of the United States, by writing on one Ticket or Piece of Paper the Names of four Persons to be voted for as Representatives, which said Ticket or Piece of Paper shall be subscribed by the Person nominating with the Date of doing the same, and that at any Time at least thirty Days previous to the Day*

of Election of said Representatives, delivering the said Ticket or Piece of Paper so subscribed and dated to the Clerk of the Court of Common Pleas of the County in which such Inhabitant may reside, which Clerk is hereby directed and required to receive and carefully to file the same, provided it be delivered within the Time aforesaid.

2. *And be it Enacted by the Authority aforesaid*, That each and every Clerk of the Court of Common Pleas in the respective Counties of this State is, and hereby are directed and required, at the Expence of the State, twenty-four Days previous to the Day of Election of the said Representatives, to transmit, by a careful and trusty Person, a true Copy of all and every such Nomination as shall be delivered to him as aforesaid to the Governor of this State for the Time being, who is hereby directed and required, at least eighteen Days previous to the said Day of Election for Representatives, to cause the same to be published in the News-Papers printed in this State, and in two or more printed in the cities of New-York and Philadelphia; and also to transmit a true List of the Names of every Candidate so returned to him as aforesaid to each and every Sheriff of the respective Counties in this State, who is hereby required immediately to put up, in at least five of the most publick Places in his County, a true List of the Names of the said Candidates.

3. *And be it further Enacted by the Authority aforesaid*, That the Persons so nominated, and whose Names shall be transmitted to the several Sheriffs as aforesaid, shall exclusively be the Candidates from whom four Representatives shall be voted for in each of the Counties of this State; and that no Person whatever shall be set up as a Candidate on the said Day of Election, but the Persons so nominated and returned as aforesaid. . . .

**Maryland**

Maryland Act of Dec. 22, 1788, ch. 10, provided:

An ACT directing the time, places and manner, of holding elections for representatives of this state in the congress of the United States, and for appointing electors on the part of this state for choosing a president and vice-president of the United States, and for the regulation of the said elections. . . .

II. BE IT ENACTED, by the *General Assembly of Maryland*, That for the purpose of choosing representatives in the congress of the United States, this state be divided into six districts, which shall be numbered from one to six; that Saint-Mary's, Charles, and Calvert counties, compose the first district; Kent, Talbot, Cecil and Queen-Anne's, the second; Anne-Arundel, including the city of Annapolis, and Prince-George's, the third; Baltimore, including the town of Baltimore, and Harford, the fourth; Somerset, Dorchester, Worcester and Caroline, the fifth; and Frederick, Washington and Montgomery, the sixth district. . . .

VII. AND BE IT ENACTED, That every person coming to vote for representatives for this state in the congress of the United States, shall have a right to vote for six persons, one whereof shall be a resident of each of the said districts, and the candidate in each district having the greatest number of votes of all the candidates residing in that district, shall be declared to be duly elected for that district. . . .

XIII. AND BE IT ENACTED, That if a vacancy or vacancies shall happen in the representation of this state in the house of representatives in the congress of the United States, by death, resignation, disqualification, or otherwise, the governor and council shall issue writs of election to the several counties in this state, the city of Annapolis and Baltimore-town, to fill such vacancy or vacancies by an election of a representative or representatives residing in the district or districts where such vacancy or vacancies shall happen, in the manner herein before prescribed. . . .

### Georgia

Georgia Act of Jan. 23, 1789, p. 247, provided:

An Act For appointing the times, manner and places for holding elections for representatives in Congress.

In order on the part of this State to carry into effect the Constitution of the United States of America. Be it enacted by the freemen of the State of Georgia in general Assembly met and it is hereby enacted by the authority of the same that the elections in this State for members of the House of Representatives in Congress of the United States shall be held in the manner following, that is to say, this State shall be and is hereby declared to be divided into three districts . . . . [T]he manner of electing three members for Representatives of the State shall be, that every man shall ballot three persons, one subj. of which shall be a resident of three years standing in the district such constituent resides in; and the other two persons to be ballotted for by such voter shall be residents of like standing of the other two separate districts: that is to say, there shall be one candidate ballotted for by every voter who is an inhabitant of each separate district so that each district in the State may be properly, impartially and effectually represented. . . .

### North Carolina

North Carolina Act of Dec. 16, 1789, ch. 1, provided:

*An Act directing the Manner of electing Representatives to represent this State in Congress.*

I. BE it enacted by the General Assembly of the State of North-Carolina, and it is hereby enacted by the authority of the same, That until an actual census be made, this state shall be divided and laid off into five divisions: . . . each of which divisions shall be entitled to elect and send one Representative to the Legislature of the United States; and the person elected in each division shall be a

resident or inhabitant of the division for which he is elected, during the space or term of one year before, and at the time of election. . . .

### **Tennessee**

Tennessee Act of Aug. 3, 1796, ch. 1, provided:

An ACT directing the mode of electing one representative to represent this State in the Congress of the United States. . . .

Sec. 2. *Be it enacted*, That the person elected shall have been a citizen or resident of this state, three years next immediately preceding the day of election: *Provided*, That this shall not be construed to extend to any person who was a citizen or resident of this state at the time of making the constitution thereof.



## APPENDIX D

## EARLY STATE LAWS—PRESIDENTIAL ELECTORS

## Pennsylvania

Pennsylvania Act of Oct. 4, 1788, provided:

An Act directing the time, places and manner of holding elections for Representatives of this State in the Congress of the United States and for appointing Electors on the part of this State for chusing a President and Vice-President of the United States.

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And be it further enacted by the authority aforesaid That every person coming to elect Representatives shall deliver in writing on one ticket or piece of paper the names of Eight persons to be voted for as Representatives, And that every person coming to vote for Electors agreeably to the said Constitution and the directions of this Act shall deliver in writing on one ticket or piece of paper the names of ten persons to be voted for as Electors agreeably to the said Constitution and for the purposes therein mentioned the said Persons so voted for as Representatives and Electors to be selected from the Citizens and Inhabitants of the state at large who are duly qualified according to the said Constitution to serve in the said respective Stations which said tickets or Ballots shall be received and dealt with in like manner with those delivered in at the General Elections for Members of Assembly and Councillors of this State. . . .

And the said Supreme Executive Council after having received the returns papers and instruments aforesaid from the said City and each and every of the counties aforesaid shall enumerate and ascertain the numbers of Votes for each and every Candidate and person so as aforesaid chosen as representatives

or Electors respectively and shall thereupon declare by proclamation issued by the said Council duly signed by the President, and without delay dispersed thro' the State, the names of the Eight persons highest in Votes of the Electors throughout the State, and in consequence duly elected and chosen as Representatives of and for the State in the Congress of the United States, and the names of the ten persons highest in Votes and therefore elected as Electors agreeably to the Constitution aforesaid. . . .

### **Delaware**

Delaware Act of Oct. 28, 1788, provided:

In the Thirteenth Year of the Independence of the Delaware State, An Act directing the time, Places, and Manner of holding an Election for a Representative of this State in the Congress of the United States, and for appointing Electors, on the part of this State, for Choosing a President and Vice President of the United States,

And be it enacted, that every person coming to vote for a Representative and Electors, agreeably to the said constitution and the Directions of this Act, shall deliver in writing on one ticket or piece of paper, the names of two persons, one of whom at least shall not be an Inhabitant of the same County with themselves, to be voted for a Representative, and one other person to be voted for as one of the Electors, for the purposes in the said Constitution mentioned which said Elector shall be an Inhabitant of the same County in which he shall be voted for. . . .

. . . [A]nd the said President or Commander in chief shall thereupon declare by Proclamation the name of the Person highest in vote, and therefore duly elected as Representative of and for the State in the Congress of the United States, and also the names of the three Persons who shall be highest in vote among

those voted for as Electors, and therefore duly elected Electors agreeably to the Constitution aforesaid. . . .

### **New Hampshire**

New Hampshire Act of Nov. 12, 1788, provided:

An Act for carrying into effect an Ordinance of Congress of the 13th Sept. last—relative to the Constitution of the United States

Be it enacted by the Senate and House of Representatives in General Court convened . . . .

And be it further enacted by the Authority aforesaid that the Inhabitants of the several towns & parishes plantations And places unincorporated qualified as aforesaid shall on the third monday of December next in town meeting assembled give in their votes for five persons Inhabitants of this State who shall not be Continental Senators Representatives or persons holding offices of profit or trust under the united States to be the electors for this State . . . .

### **Virginia**

Virginia Act of Nov. 17, 1788, provided:

An ACT for the appointment of Electors to chuse a President pursuant to the Constitution of Government of the United States.

Passed the 17th of November 1788.

Whereas the United States in Congress assembled did on the thirteenth day of September in the year of our Lord one thousand seven hundred and eighty eight resolve that the first Wednesday in January next be the day for appointing Electors in the several States which before the said day shall have ratified the New Constitution of Government for the United States that the first Wednesday in February next be the day for the Electors to assemble in their respec-

tive States and vote for a President and that the first Wednesday in March next be the time and the present Seat of Congress the place for commencing proceedings under the said Constitution Be it therefore enacted by the General Assembly that for the purpose of chusing twelve Electors on behalf of this State to vote for a President in conformity to the Constitution of Government for the United States the several Counties in this Commonwealth shall be allotted into twelve Districts in manner following . . . . That the persons qualified by law to vote for Members to the General Assembly in each County composing a District shall assemble at their respective Courthouses on the first Wednesday in January and then and there vote for some discreet and proper person being a freeholder and bona fide resident in such District for twelve months as an Elector for such District to vote for a President of the United States in conformity to the said Constitution . . . .

### **Massachusetts**

Massachusetts Resolve of Nov. 19, 1788, provided:

Resolved for organizing the Federal Government  
November 19, 1788

*Resolved, . . . .*

And be it further Resolved,

That when the inhabitants of the several Towns & Districts qualified as aforesaid shall be assembled on the said eighteenth day of December next, they shall also give in their votes for two persons who shall be inhabitants of the district in which such Town or District may be, as Candidates for an Elector of the President and Vice President of the United States—And a list of the votes so given in as aforesaid, Shall, by the Selectmen of the several Towns & Districts, or the major part of them be transmitted to the Secretary's office on or before the first monday



in January next—and on the Wednesday next following, the General Court then in session shall examine the said Returns, and from the two who shall be found to have the greatest number of votes in each district, the members of the two houses assembled in one room shall be joint ballot elect one who shall be the Elector for the district to which he belongs—and in case it should so happen, that more than two persons voted for as Electors should have an equality of votes among the highest voted for, then the members of the two houses as aforesaid shall out of such number choose the Elector . . . .

And be it further Resolved

That the members of the two houses of the General Court shall in manner as aforesaid appoint at large, two Electors for the President and Vice President, not voted for by the districts as aforesaid—

. . . .

### **New Jersey**

New Jersey Act of Nov. 21, 1788, provided:

An ACT for carrying into Effect, on the Part of the State of New Jersey, the Constitution of the United States, assented to, ratified and confirmed by this State, on the eighteenth Day of December, in the Year of our LORD One Thousand Seven Hundred and Eighty-seven. . . . .

8. *And be it further Enacted by the Authority aforesaid*, That, until further Provision shall be made by Law for the nominating and appointing the Electors to be chosen by this State for the Purpose of voting for two Persons as is mentioned in the first Section of the second Article of said Constitution, it shall and may be lawful for the Governor and Council of this State to meet on the first Wednesday in January next at Princeton, unless the Legislature of the State shall be sitting elsewhere, and then at such



Place, and then and there, by Plurality of Votes, to nominate, elect and appoint, six Citizens of this State, being Freeholders and Residents in the State, and otherwise qualified to be the Electors for the Purposes mentioned in the said Constitution, whom the Governor for the Time being shall commission under the Great Seal of the State, and make known the same by Proclamation; . . . .

### **Maryland**

Maryland Act of Dec. 22, 1788, provided:

An ACT directing the time, place and manner, of holding elections for representatives of this state in the congress of the United States, and for appointing electors on the part of this state for choosing a president and vice-president of the United States, and for the regulation of the said elections. . . .

VI. *And be it enacted.* That every person coming to vote for electors of president and vice-president, agreeably to the directions of this act, shall have a right to vote for eight persons, five of whom shall be residents of the western shore, and three of the eastern shore, and the five persons residents of the western shore, having the greater number of votes of all the candidates on that shore, and the three persons residents of the eastern shore, having the greatest number of votes of all the candidates on that shore, shall be declared to be duly elected. . . .

## APPENDIX E

## FEDERAL DISQUALIFICATION LAWS

## 1. Current Disqualification Laws

(Emphasis in all instances supplied)

## 1. Title 18 U.S.C. § 201 provides:

Bribery of public officials and witnesses

. . .

(b) Whoever— . . .

(4) directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity in return for being influenced in testimony under oath or affirmation as a witness upon any such trial, hearing, or other proceeding, or in return for absenting himself therefrom;

shall be fined not more than three times the monetary equivalent of the thing of value, or imprisoned for not more than fifteen years, or both, and *may be disqualified from holding any office of honor, trust, or profit under the United States*. . . .

## 2. Title 18 U.S.C. § 592 provides:

Troops at polls

Whoever, being an officer of the Army or Navy, or other person in the civil, military, or naval service of the United States orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held, unless such force be necessary to repel armed enemies of the United States, *shall* be fined not more than \$5,000 or imprisoned not more than five years, or both; and *be disqualified from holding any office of honor, profit, or trust under the United States* . . .

3. Title 18 U.S.C. § 593 provides:

Interference by armed forces

Whoever, being an officer or member of the Armed Forces of the United States, prescribes or fixes or attempts to prescribe or fix, whether by proclamation, order or otherwise, the qualifications of voters at any election in any State; or

Whoever, being such officer or member, prevents or attempts to prevent by force, threat, intimidation, advice or otherwise any qualified voter of any State from fully exercising the right of suffrage at any general or special election; or

Whoever, being such officer or member, orders or compels or attempts to compel any election officer in any State to receive a vote from a person not legally qualified to vote; or

Whoever, being such officer or member, imposes or attempts to impose any regulations for conducting any general or special election in a State, different from those prescribed by law; or

Whoever, being such officer or member, interferes in any manner with an election officer's discharge of his duties—

*Shall be* fined not more than \$5,000 or imprisoned not more than five years, or both; and *disqualified from holding any office of honor, profit or trust under the United States.* . . .

4. Title 18 U.S.C. § 1901 provides:

Collecting or disbursing officer trading in public property

Whoever, being an officer of the United States concerned in the collection or the disbursement of the revenues thereof, carries on any trade or business in the funds or debts of the United States, or of any

State, or in any public property of either, shall be fined not more than \$3,000 or imprisoned not more than one year, or both; and *shall* be removed from office, and *be incapable of holding any office under the United States.*

5. Title 18 U.S.C. § 2071 provides:

Concealment, removal, or mutilation generally

... (b) Whoever, having the custody of any such record, proceeding, map, book, document, paper, or other thing, willfully and unlawfully conceals, removes, mutilates, obliterates, falsifies, or destroys the same, shall be fined not more than \$2,000 or imprisoned not more than three years, or both; and *shall* forfeit his office and *be disqualified from holding any office under the United States.* As used in this subsection, the term "office" does not include the office held by any person as a retired officer of the Armed Forces of the United States.

6. Title 18 U.S.C. § 2381 provides:

Treason

Whoever, owing allegiance to the United States, levies war against them or adheres to their enemies, giving them aid and comfort within the United States, or elsewhere, is guilty of treason and shall suffer death, or shall be imprisoned not less than five years and fined not less than \$10,000; *and shall be incapable of holding any office under the United States.*

7. Title 18 U.S.C. § 2383 provides:

Rebellion or insurrection

Whoever incites, sets on foot, assists, or engages in any rebellion or insurrection against the authority of the United States or the laws thereof, or gives aid or comfort thereto, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both; and *shall be incapable of holding any office under the United States.*

## 8. Title 5 U.S.C. § 7311 provides:

## Loyalty and striking

An individual *may not accept or hold a position in the Government of the United States* or the government of the District of Columbia if he—

(1) advocates the overthrow of our constitutional form of government;

(2) is a member of an organization that he knows advocates the overthrow of our constitutional form of government;

(3) participates in a strike, or asserts the right to strike, against the Government of the United States or the government of the District of Columbia; or

(4) is a member of an organization of employees of the Government of the United States or of individuals employed by the government of the District of Columbia that he knows asserts the right to strike against the Government of the United States or the government of the District of Columbia.

## 9. Title 5 U.S.C. § 7313 provides:

## Riots and civil disorders

(a) An individual convicted by any Federal, State, or local court of competent jurisdiction of—

(1) inciting a riot or civil disorder;

(2) organizing, promoting, encouraging, or participating in a riot or civil disorder;

(3) aiding or abetting any person in committing any offense specified in clause (1) or (2); or

(4) any offense determined by the head of the employing agency to have been committed in



furtherance of, or while participating in, a riot or civil disorder;

*shall, if the offense for which he is convicted is a felony, be ineligible to accept or hold any position in the Government of the United States or in the government of the District of Columbia for the five years immediately following the date upon which his conviction becomes final. Any such individual holding a position in the Government of the United States or the government of the District of Columbia on the date his conviction becomes final shall be removed from such position.*

(b) For the purposes of this section, "felony" means any offense for which imprisonment is authorized for a term exceeding one year.

10. Title 46 U.S.C. § 59 provides:

Penalty for neglect by officers

If any person authorized and required by this chapter to perform, as an officer, any act or thing, willfully neglects to do or perform the same according to the true intent and meaning of this chapter, he shall, if not subject to the penalty and disqualification prescribed in section 58 of this title, be punishable by a fine of \$500 for the first offense, and by a like fine for the second offense, and *shall thenceforth be rendered incapable of holding any office of trust or profit under the United States.*

11. Title 46 U.S.C. § 322 provides:

Penalty for malfeasance

Every person, authorized and required by sections 251-255, 258, 259, 262-280, 293, 306-316, 318, 321-330, and 333-335 of this title to perform any act or thing as an officer, who willfully neglects or refuses to do and perform the same, according to the true intent and meaning of such sections, shall, if not

subject to the penalty and disqualifications prescribed in section 321 of this title, be liable to a penalty of \$500 for the first offense, and of like sum for the second offense, and *shall*, after conviction for the second offense, *be rendered incapable of holding any office of trust or profit under the United States.*

## 2. Former Disqualification Laws

(Emphasis on substantive provisions supplied)

1. Act of Sept. 2, 1789, ch. 12, § 8, 1 Stat. 66, 67:

SEC. 8. *And be it further enacted*, That no person appointed to any office instituted by this act, shall directly or indirectly be concerned or interested in carrying on the business of trade or commerce, or be owner in whole or in part of any sea-vessel, or purchase by himself, or another in trust for him, any public lands or other public property, or be concerned in the purchase or disposal of any public securities of any State, or of the United States, or take or apply to his own use, any emolument or gain for negotiating or transacting any business in the said department, other than what shall be allowed by law; and if any person shall offend against any of the prohibitions of this act, he shall be deemed guilty of a high misdemeanor, and forfeit to the United States the penalty of three thousand dollars, and *shall upon conviction* be removed from office, and *forever thereafter incapable of holding any office under the United States: Provided*, That if any other person than a public prosecutor shall give information of any such offence, upon which a prosecution and conviction shall be had, one half of the aforesaid penalty of three thousand dollars, when recovered, shall be for the use of the person giving such information.

2. Act of April 30, 1790, ch. 9, § 21, 1 Stat. 112, 117:

SEC. 21. *And be it [further] enacted*, That if any person shall, directly or indirectly, give any sum or

sums of money, or any other bribe, present or reward, or any promise, contract, obligation or security, for the payment or delivery of any money, present or reward, or any other thing to obtain or procure the opinion, judgment or decree of any judge or judges of the United States, in any suit, controversy, matter or cause depending before him or them, and shall be thereof convicted, such person or persons so giving, promising, contracting or securing to be given, paid or delivered, any sum or sums of money, present, reward or other bribe as aforesaid, and the judge or judges who shall in any wise accept or receive the same, on conviction thereof shall be fined and imprisoned at the discretion of the court; and *shall forever be disqualified to hold any office of honour, trust or profit under the United States.*

3. Act of May 8, 1792, ch. 37, § 12, 1 Stat. 280, 281:

SEC. 12. *And be it further enacted,* That the restriction on the clerks of the department of the treasury so far as respects the carrying on of any trade or business, other than in the funds or debts of the United States or of any state, or in any kind of public property, be abolished, and that such restriction, so far as respects the funds or debts of the United States, or of any state, or any public property of either, be extended to the commissioner of the revenue, to the several commissioners of loans, and to all persons employed in their respective offices, and to all officers of the United States concerned in the collection or disbursement of the revenues thereof, under the penalties prescribed in the eighth section of the act, intituled "An act to establish the treasury department" [Act of Sept. 2, 1789] and the provisions relative to the officers in the treasury department, contained in the "Act to establish the post-office and post roads," shall be and hereby are extended and applied to the commissioner of the revenue.

## 4. Act of Dec. 31, 1792, ch. 1, § 26, 1 Stat. 287, 298:

SEC. 26. *And be it further enacted*, That every collector, or officer, who shall knowingly make, or be concerned in making, any false register or record, or shall knowingly grant, or be concerned in granting, any false certificate of registry or record of, or for any ship or vessel, or other false document whatsoever, touching the same, contrary to the true intent and meaning of this act, or who shall designedly take any other, or greater fees, than are by this act allowed, or who shall receive any voluntary reward or gratuity, for any of the services performed, pursuant thereto; and every surveyor, or other person appointed to measure any ship or vessel, who shall wilfully deliver to any collector, or naval officer, a false description of such ship or vessel, to be registered or recorded, *shall*, upon conviction of any such neglect, or offence, forfeit the sum of one thousand dollars, and *be rendered incapable of serving in any office of trust or profit, under the United States*; and if any person or persons, authorized and required by this act, in respect to his or their office or offices, to perform any act or thing, required to be done or performed, pursuant to any of the provisions of this act, shall wilfully neglect to do or perform the same, according to the true intent and meaning of this act, such person or persons shall, on being duly convicted thereof, if not subject to the penalty and disqualification aforesaid, forfeit the sum of five hundred dollars for the first offence, and a like sum for the second offence, and *shall, thenceforth, be rendered incapable of holding any office of trust or profit under the United States*.

## 5. Act of Feb. 18, 1793, ch. 8, § 29, 1 Stat. 305, 315:

SEC. 29. *And be it further enacted*, That every collector, who shall knowingly make any record of enrolment or license of any ship or vessel, and every other officer, or person, appointed by, or under them,



who shall make any record, or grant any certificate, or other document whatever, contrary to the true intent and meaning of this act, or shall take any other, or greater fees, than are by this act allowed, or shall receive, for any service performed pursuant to this act, any reward or gratuity, and every surveyor, or other person appointed to measure ships or vessels, who shall wilfully deliver to any collector, or naval officer, a false description of any ship or vessel, to be enrolled or licensed, in pursuance of this act, *shall*, upon conviction of any such neglect or offence, forfeit to the United States five hundred dollars, and *be rendered incapable of serving in any office of trust or profit, under the United States*. And if any person, authorized and required by this act, in respect to his office, to perform any act or thing required by this act, shall wilfully neglect or refuse to do and perform the same, according to the true intent and meaning of this act, such person, on being duly convicted thereof, if not hereby subject to the penalty and disqualifications aforesaid, shall forfeit and pay the sum of five hundred dollars for the first offence, and a like sum for the second offence, and *shall from thenceforward, be rendered incapable of holding any office of trust or profit under the United States*.

6. Act of Feb. 26, 1853, ch. 81, § 5, 10 Stat. 170, 171:

SEC. 5. *And be it further enacted*, That any officer having the custody of any record, document, paper, or proceeding specified in the last preceding section of this act, who shall fraudulently take away, or withdraw, or destroy any such record, document, paper, or proceeding filed in his office or deposited with him, or in his custody, shall be deemed guilty of felony, and on conviction in any court of the United States having jurisdiction thereof, shall pay a fine not exceeding two thousand dollars, or suffer imprisonment in a penitentiary not exceeding three years, or both, as the court in its discretion shall adjudge,



and *shall* forfeit his office and *be forever afterwards disqualified from holding any office under the Government of the United States.*

7. Act of Feb. 26, 1853, ch. 81, § 6, 10 Stat. 170, 171:

SEC. 6. *And be it further enacted,* That if any person or persons shall, directly or indirectly, promise, offer, or give, or cause or procure to be promised, offered, or given, any money, goods, right in action, bribe, present, or reward, or any promise, contract, undertaking, obligation, or security for the payment or delivery of any money, goods, right in action, bribe, present, or reward, or any other valuable thing whatever, to any member of the Senate or House of Representatives of the United States, after his election as such member, and either before or after he shall have qualified and taken his seat, or to any officer of the United States, or person holding any place of trust or profit, or discharging any official function under, or in connection with, any department of the Government of the United States, or under the Senate or House of Representatives of the United States, after the passage of this act, with intent to influence his vote or decision on any question, matter, cause, or proceeding which may then be pending, or may by law, or under the Constitution of the United States, be brought before him in his official capacity, or in his place of trust or profit, and shall be thereof convicted, such person or persons so offering, promising, or giving, or causing or procuring to be promised, offered, or given any such money, goods, right in action, bribe, present, or reward, or any promise, contract, undertaking, obligation, or security for the payment or delivery of any money, goods, right in action, bribe, present, or reward, or other valuable thing whatever, and the member, officer, or person who shall in anywise accept or receive the same, or any part thereof, shall be liable

to indictment as for a high crime and misdemeanor in any court of the United States having jurisdiction for the trial of crimes and misdemeanors; and shall, upon conviction thereof, be fined not exceeding three times the amount so offered, promised, or given, and imprisoned in a penitentiary not exceeding three years; and the person convicted of so accepting or receiving the same, or any part thereof, if an officer or person holding any such place of trust or profit as aforesaid, shall forfeit his office or place; and any person so convicted under this section *shall forever be disqualified to hold any office of honor, trust, or profit, under the United States.*

8. Act of July 2, 1862, ch. 128, 12 Stat. 502:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter every person elected or appointed to any office of honor or profit under the government of the United States, either in the civil, military or naval departments of the public service, excepting the President of the United States, shall, before entering upon the duties of such office, and before being entitled to any of the salary or other emoluments thereof, take and subscribe the following oath or affirmation: "I, A. B., do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted nor attempted to exercise the functions of any office whatever, under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will sup-*

port and defend the Constitution of the United States, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter, so help me God;" which said oath, so taken and signed, shall be preserved among the files of the court, House of Congress, or Department to which the said office may appertain. And *any person who shall falsely take the said oath shall be guilty of perjury, and on conviction, in addition to the penalties now prescribed for that offense, shall be deprived of his office and rendered incapable forever after of holding any office or place under the United States.*

9. Act of July 16, 1862, ch. 180, 12 Stat. 577, 578:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That any member of Congress or any officer of the government of the United States who shall, directly or indirectly, take, receive, or agree to receive, any money, property, or other valuable consideration whatsoever, from any person or persons for procuring, or aiding to procure, any contract, office, or place, from the government of the United States or any department thereof, or from any officer of the United States, for any person or persons whatsoever, or for giving any such contract, office, or place to any person whomsoever, and the person or persons who shall directly or indirectly offer or agree to give, or give or bestow any money, property, or other valuable consideration whatsoever, for the procuring or aiding to procure any contract, office, or place as aforesaid, and any member of Congress who shall directly or indirectly take, receive, or agree to receive any money, property, or other valuable consideration whatsoever after his election as such member, for his attention to, serv-



ices, action, vote, or decision on any question, matter, cause or proceeding which may then be pending, or may by law or under the Constitution of the United States be brought before him in his official capacity, or in his place of trust and profit as such member of Congress, shall, for every such offense, be liable to indictment as for a misdemeanor in any court of the United States having jurisdiction thereof, and on conviction thereof shall pay a fine of not exceeding ten thousand dollars, and suffer imprisonment in the penitentiary not exceeding two years, at the discretion of the court trying the same; and any such contract or agreement, as aforesaid, may, at the option of the President of the United States, be absolutely null and void; and *any member of Congress* or officer of the United States convicted, as aforesaid, *shall, moreover, be disqualified from holding any office of honor, profit, or trust under the government of the United States.*

10. Act of July 17, 1862, ch. 195, §§ 1-3, 12 Stat. 589, 590:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That every person who shall hereafter commit the crime of treason against the United States, and shall be adjudged guilty thereof, shall suffer death, and all his slaves, if any, shall be declared and made free; or, at the discretion of the court, he shall be imprisoned for not less than five years and fined not less than ten thousand dollars, and all his slaves, if any, shall be declared and made free; said fine shall be levied and collected on any or all of the property, real and personal, excluding slaves, of which the said person so convicted was the owner at the time of committing the said crime, any sale or conveyance to the contrary notwithstanding.

**SEC. 2.** *And be it further enacted,* That if any person shall hereafter incite, set on foot, assist, or

engage in any rebellion or insurrection against the authority of the United States, or the laws thereof, or shall give aid or comfort thereto, or shall engage in, or give aid and comfort to, any such existing rebellion or insurrection, and be convicted thereof, such person shall be punished by imprisonment for a period not exceeding ten years, or by a fine not exceeding ten thousand dollars, and by the liberation of all his slaves, if any he have; or by both of said punishments, at the discretion of the court.

SEC. 3. *And be it further enacted, That every person guilty of either of the offenses described in this act shall be forever incapable and disqualified to hold any office under the United States.*

11. Act of June 11, 1864, ch. 119, 13 Stat. 123:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no member of the Senate or House of Representatives shall, after his election and during his continuance in office, nor shall any head of a department, head of a bureau, clerk, or any other officer of the government receive or agree to receive any compensation whatsoever, directly or indirectly, for any services rendered, or to be rendered, after the passage of this act, to any person, either by himself or another, in relation to any proceeding, contract, claim, controversy, charge, accusation, arrest, or other matter or thing in which the United States is a party, or directly or indirectly interested, before any department, court-martial, bureau, officer, or any civil, military, or naval commission whatever. And any person offending against any provision of this act shall, on conviction thereof, be deemed guilty of a misdemeanor, and be punished by a fine not exceeding ten thousand dollars, and by imprisonment for a term not exceeding two years, at the discretion of the court trying the same, and shall be forever thereafter incapable of holding any office of honor,*



*trust, or profit under the government of the United States.*

12. Act of Feb. 25, 1865, ch. 52, §§ 1, 2, 13 Stat. 437:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall not be lawful for any military or naval officer of the United States, or other person engaged in the civil, military, or naval service of the United States, to order, bring, keep, or have under his authority or control, any troops or armed men at the place where any general or special election is held in any state of the United States of America, unless it shall be necessary to repel the armed enemies of the United States, or to keep the peace at the polls. And that it shall not be lawful for any officer of the army or navy of the United States to prescribe or fix, or attempt to prescribe or fix, by proclamation, order, or otherwise, the qualifications of voters in any state of the United States of America, or in any manner to interfere with the freedom of any election in any state, or with the exercise of the free right of suffrage in any state of the United States. Any officer of the army or navy of the United States, or other person engaged in the civil, military, or naval service of the United States, who violates this section of this act, shall, for every such offence, be liable to indictment as for a misdemeanor, in any court of the United States having jurisdiction to hear, try, and determine cases of misdemeanor, and on conviction thereof shall pay a fine not exceeding five thousand dollars, and suffer imprisonment in the penitentiary not less than three months, nor more than five years, at the discretion of the court trying the same; and any person convicted as aforesaid shall, moreover, be disqualified from holding any office of honor, profit, or trust, under the government of the United States: Pro-*

*vided*, That nothing herein contained shall be so construed as to prevent any officers, soldiers, sailors, or marines, from exercising the right of suffrage in any election district to which he may belong, if otherwise qualified according to the laws of the state in which he shall offer to vote.

SEC. 2. *And be it further enacted*, That any officer or person in the military or naval service of the United States, who shall order or advise, or who shall directly or indirectly, by force, threat, menace, intimidation, or otherwise, prevent or attempt to prevent any qualified voter of any state of the United States of America from freely exercising the right of suffrage at any general or special election in any state of the United States, or who shall in like manner compel, or attempt to compel, any officer of an election in any such state to receive a vote from a person not legally qualified to vote, or who shall impose or attempt to impose any rules or regulations for conducting such election different from those prescribed by law, or interfere in any manner with any officer of said election in the discharge of his duties, shall for any such offence be liable to indictment as for a misdemeanor, in any court of the United States having jurisdiction to hear, try, and determine cases of misdemeanor, and on conviction thereof shall pay a fine of not exceeding five thousand dollars, and suffer imprisonment in the penitentiary not exceeding five years, at the discretion of the court trying the same, and any person convicted as aforesaid, *shall, moreover, be disqualified from holding any office of honor, profit, or trust, under the government of the United States.*

13. Act of March 3, 1911, ch. 231, § 144, 36 Stat. 1087, 1136:

SEC. 144. *Whoever, being elected or appointed a Senator, Member of, or Delegate to Congress, or a Resident Commissioner, shall, after his election or*

appointment, and either before or after he has qualified, and during his continuance in office, practice in the Court of Claims, shall be fined not more than ten thousand dollars and imprisoned not more than two years; and *shall, moreover, thereafter be incapable of holding any office of honor, trust, or profit under the Government of the United States.*

14. Title 18 U.S.C. § 203 (1988 ed.):

Compensation to Members of Congress, officers and others in matters affecting the Government

(a) Whoever, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly—(1) demands, seeks, receives, accepts, or agrees to receive, or accept, any compensation for any services rendered or to be rendered either personally or by another—

(A) at a time when such person is a Member of Congress, Member of Congress Elect, Delegate, Delegate Elect, Resident Commissioner, or Resident Commissioner Elect; or

(B) at a time when such person is an officer or employee of the United States in the executive, legislative, or judicial branch of the Government, or in any agency of the United States, including the District of Columbia.

in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest, before any department, agency, court-martial, officer, or any civil, military, or naval commission; or

(2) knowingly directly or indirectly gives, promises, or offers any compensation for any such services rendered or to be rendered at a time when the

person to whom the compensation is given, promised, or offered, is or was such a Member, Delegate, Commissioner, officer, or employee;

Shall be fined under this title or imprisoned for not more than two years, or both; and *shall be incapable of holding any office of honor, trust, or profit under the United States. . . .*

15. Title 18 U.S.C. § 204 (1988 ed.):

Practice in United States Claims Court or the  
United States Court of Appeals for the  
Federal Circuit by Members of Congress

Whoever, being a Member of Congress, Member of Congress Elect, Delegate from the District of Columbia, Delegate Elect from the District of Columbia, Resident Commissioner, or Resident Commissioner Elect, practices in the United States Claims Court or the United States Court of Appeals for the Federal Circuit, shall be fined not more than \$10,000 or imprisoned for not more than two years, or both, and *shall be incapable of holding any office of honor, trust, or profit under the United States.*



## APPENDIX F

## OTHER ARKANSAS ELECTION PROVISIONS

## Constitution

1. Arkansas Constitution, Art. 3, § 1, provides:

Qualifications of electors—Equal suffrage—Poll tax.

Every citizen of the United States of the age of twenty-one years, who has resided in the State twelve months, in the county six months, and in the precinct, town or ward one month, next preceding any election at which they may propose to vote, except such persons as may for the commission of some felony be deprived of the right to vote by law passed by the General Assembly, and who shall exhibit a poll tax receipt or other evidence that they have paid their poll tax at the time of collecting taxes next preceding such election, shall be allowed to vote at any election in the State of Arkansas; provided, that persons who make satisfactory proof that they have attained the age of twenty-one years since the time of assessing taxes next preceding said election and possess the other necessary qualifications, shall be permitted to vote; and, provided further, and the said tax receipt shall be so marked by dated stamp or written endorsement by the judges of election to whom it may be first presented as to prevent the holder thereof from voting more than one at any election. It is declared to be the purpose of this amendment to deny the right of suffrage to aliens and it is declared to be the purpose of this amendment to confer suffrage equally upon both men and women, without regard to sex. Provided, that women shall not be compelled to serve on juries.

2. Arkansas Constitution, Art. 19, § 3, provides:

No person shall be elected to or appointed to fill a vacancy in any office who does not possess the qualifications of an elector.



3. Arkansas Constitution, Amendment 29, provides:

§ 1 Elective offices—Exceptions.

Vacancies in the office of United States Senator, and in all elective state, district, circuit, county, and township offices except those of Lieutenant Governor, Member of the General Assembly and Representative in the Congress of the United States, shall be filled by appointment by the Governor.

§ 2 Ineligible persons—Nepotism.

The Governor, Lieutenant Governor and Acting Governor shall be ineligible for appointment to fill any vacancies occurring or any office or position created, and resignation shall not remove such ineligibility. Husbands and wives of such officers, and relatives of such officers, or of their husbands and wives within the fourth degree of consanguinity or affinity, shall likewise be ineligible. No person appointed under Section 1 shall be eligible for appointment or election to succeed himself.

\* \* \*

§ 5 Election to fill—Placing names on ballots.

Only the names of candidates for office nominated by an organized political party at a convention of delegates, or by a majority of all the votes cast for candidates for the office in a primary election, or by petition of electors as provided by law, shall be placed on the ballots in any election.

4. Arkansas Constitution, Amendment 51, § 17, provides:

This amendment supersedes and repeals the requirement of Amendment No. 8 [amending Art. 3, § 1] that a poll tax receipt be presented prior to registration or voting, and further supersedes and repeals Act 19 of 1964 and all other laws or parts of laws in conflict herewith.

**Statutes****1. Arkansas Code Ann. § 7-3-108 provides:**

**Communist or subversive parties—New parties—Affidavit required—Penalty.**

(a) No political party shall be recognized, qualified to participate, or permitted to have the names of its candidates printed on the ballot in any election in this state:

(1) Which is directly or indirectly affiliated by any means whatsoever with the Communist Party of the United States, the Communist International, or any other foreign agency, political party, organization, or government; or

(2) Which either directly or indirectly advocates, teaches, justifies, aids, or abets the overthrow by force or violence, or by any unlawful means, of the government of the United States or this state; or

(3) Which directly or indirectly carries on, advocates, teaches, justifies, aids, or abets a program of sabotage, force and violence, sedition, or treason against the government of the United States or this state.

(b) No newly organized political party shall be recognized or qualified to participate or permitted to have the names of its candidates printed on the ballot in any election in this state until it has filed an affidavit, by the officers of the party in this state under oath that:

(1) It is not directly or indirectly affiliated by any means whatsoever with the Communist Party of the United States, the Third Communist International, or any other foreign agency, political party, organization, or government; or

(2) It does not either directly or indirectly advocate, teach, justify, aid, or abet the overthrow by

force or violence, or by any unlawful means, of the government of the United States or this state; or

(3) It does not directly or indirectly carry on, advocate, teach, justify, aid, or abet a program of sabotage, force and violence, sedition, or treason against the government of the United States or this state. The affidavit shall be filed with the Secretary of State, and he shall make any investigation as he may deem necessary to determine the character and nature of the political doctrines of the proposed new party. If he finds that the proposed new party advocates doctrines or has affiliations which are in violation of the provisions of this act, he shall not permit the party to participate in the election.

(c) Any person who shall violate any provision of this section shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) and, in addition thereto, may be imprisoned for not more than six (6) months.

2. Arkansas Code Ann. § 7-5-207 provides:

Ballots—Names included.

(a) All election ballots provided by the county board of election commissioners of any county in this state for any election shall contain in the proper place the name of every candidate whose nomination for any office to be filled at that election has been certified to the commissioners and shall not contain the name of any candidate or person who has not been certified. If any candidate shall, prior to the printing of the ballots, notify the secretary of the state committee in the case of a United States, state, or district office, or the secretary of the county committee in the case of a county, city or township office, in writing, signed by the candidate, and acknowledged before an officer authorized to take acknowledgments, of his desire to withdraw as a

candidate for the office or position, the name of the person shall not be printed on the ballot at the general or special election.

(b) No person's name shall be printed upon the ballot as a candidate for any public office in this state at any election unless the person is qualified and eligible at the time of filing as a candidate for the office to hold the public office for which he is a candidate, except if a person is not qualified to hold the office at the time of filing because of age alone, the name of the person shall be printed on the ballot as a candidate for the office if the person will qualify to hold the office at the time prescribed by law for taking office.

3. Arkansas Code Ann. § 7-7-101 provides:

Selection of nominees.

The name of no person shall be printed on the ballot in any general or special election in this state as a candidate for election to any office unless the person shall have been certified as a nominee selected pursuant to this subchapter.

4. Arkansas Code Ann. § 7-7-102 provides:

Party nominees certified at primary election.

(a) Nominees of any political party for United States Senate, United States House of Representatives, state, district, or county office to be voted upon at a general election shall be certified as having received a majority of the votes cast for the office, or as an unopposed candidate, at a primary election held by the political party in the manner provided by law.

(b) Nominees of any political party for township or municipal office shall be declared by certification of a primary election as provided in subsection (a) of this section.



5. Arkansas Code Ann. § 7-7-103 provides:

Filing as an independent—Petitions—Disqualification.

\* \* \*

(b) Any person desiring to have his name placed upon the ballot as an independent candidate without political party affiliation for any state, county, township, or district office in any general election in this state shall file as an independent candidate in the manner provided in this section no later than the date fixed by law as the deadline for filing political practice pledges and party pledges if any are required by the rules of the party to qualify as a candidate of a political party in a primary election or the first day of May, whichever is later.

(c)(1) He shall furnish, at the time he files as an independent candidate, petitions signed by not less than three percent (3%) of the qualified electors in the county, township, or district in which the person is seeking office, but in no event shall more than two thousand (2,000) signatures be required for a district office.

(2) If the person is a candidate for state office or for United States Senator in which a statewide race is required, the person shall file petitions signed by not less than three percent (3%) of the qualified electors of the state, or ten thousand (10,000) signatures of qualified electors, whichever is the lesser. Each elector signing the petition shall be a registered voter, and the petition shall be directed to the official with whom the person is required by law to file nomination certificates to qualify as a candidate, requesting that the name of the person be placed on the ballot for election to the office mentioned in the petition.

(3) Petitions shall be circulated not earlier than sixty (60) calendar days prior to the deadline for



filing petitions to qualify as an independent candidate.

\* \* \*

(f) A person who has been defeated in a party primary shall not be permitted to file as an independent candidate in the general election for the office for which he was defeated in the party primary.

6. Arkansas Code Ann. § 7-7-203 provides:

Dates.

(a) The general primary election shall be held on the second Tuesday in June preceding the general election.

(b) The preferential primary election shall be held on the Tuesday two (2) weeks prior to the general primary election.

(c) Party pledges, if any, and political practice pledges for primary elections shall be filed, and ballot fees shall be paid, during regular office hours in the period beginning at 12:00 noon on the third Tuesday in March and ending at 12:00 noon on the fourteenth day thereafter, before the preferential primary election. Party pledges, if any, and political practice pledges shall be filed, and ballot fees for special primary elections shall be paid, on or before the deadline established by proclamation of the Governor. Pledges and ballot fees for a new political party shall be filed and paid as provided in subsection (g) of this section. However, this subsection does not apply to preferential presidential primary candidates.

(d) No later than forty (40) days before the preferential primary election, the chairman and secretary of the state committee of the political party shall certify to the various county committees the

names of all candidates who have qualified with the state committee for election by filing the party pledge and paying the ballot fee within the time required by law.

\* \* \*

(g) Any group of voters desiring to form a new political party may do so by filing a petition with the Secretary of State. The petition shall contain the signatures of qualified electors of this state equal in number to at least three percent (3%) of the total vote cast for the Office of Governor or nominees for presidential electors, whichever is less, at the last preceding election. The petitions shall be filed with the Secretary of State no later than 12:00 noon on the first Tuesday in the fourth calendar month before the preferential primary election. The petitions shall be circulated during the period beginning one hundred twenty (120) calendar days prior to the deadline for filing the petitions with the Secretary of State. However, this subsection does not apply to preferential presidential primary elections.

7. Arkansas Code Ann. § 7-7-301 provides:

Party pledges and ballot fees.

(a) On or before the time in § 7-7-203(c), all candidates at primary elections held by political parties shall file any pledge required by such party and shall pay the ballot fees required by the party, as follows:

(1) Candidates for United States Senator, Representative in Congress, and all state offices shall file the pledge and pay the ballot fees with the secretary of the state committee of the political party or his designated agent; . . .

\* \* \*

(b)(1) Before the name of any person shall appear on the primary ballot of a political party as a

candidate for any local, state, or federal office, the secretary of the county committee or the secretary of the state committee, as the case may be, of the political party must make an affirmative determination that the person complies with the eligibility requirements of the office.

(2) The secretary of the county committee or state committee, as the case may be, shall require an affidavit of eligibility from the candidate, and the secretary may make such independent investigation as he deems necessary to determine the eligibility of the candidate to serve in the office he seeks, including the power to compel the person to answer interrogatories. The affidavit of eligibility shall be filed along with the filing fee and party pledge, and the investigation concerning the eligibility shall be concluded within two (2) weeks after the filing deadline for nomination.

(c) The county clerk shall not accept for filing the political practices pledge of any candidate for nomination by a political party to any county office, nor shall the Secretary of State accept for filing the political practice pledge of any candidate for nomination by a political party to any district office, unless the candidate first furnishes written evidence of payment of all ballot fees required by the political party for candidates for the office of which the person is seeking nomination and written evidence of the filing of all party pledges required by the political party, if any. "Written evidence" shall mean a written statement or receipt signed by the secretary or chairman of the county committee or the state committee, as the case may be, of the political party evidencing payment of the fees and filing of the party pledge, if any, required by the political party.

(d) Any candidate who shall fail to file the party pledge and pay the ballot fee at the time and in the

manner as provided in this section shall not have his name printed on the ballot at any primary election.

\* \* \*

8. Arkansas Code Ann. § 7-8-101 provides:

Primaries—General law governs.

All primaries, preferential and general, for the selection of nominees for federal offices, including those of the United States Senators and Representatives, shall be held on the same date and in the same manner as the preferential and general primaries for state, district, county, and township offices and shall be governed by the same procedure prescribed by this act.

\* \* \*

9. Arkansas Code Ann. § 14-49-202 provides:

(a) No person on the commission shall hold or be a candidate for any office or public trust under any national, state, county, or municipal government, or school district, or be connected in any way in any official capacity with any political party or organization. . . .

10. Arkansas Code Ann. § 14-50-202 provides:

(a) Members of the civil service commission shall be citizens of the State of Arkansas and residents of the city for at least three (3) years immediately preceding their appointment.

(b)(1) No person on the commission shall hold or be a candidate for any political office under any national, state, county, or municipal government, or be connected in any official capacity with any political party or organization. . . .

11. Arkansas Code Ann. § 14-49-306 provides:

(a) No employee in any department affected by this chapter shall engage in the solicitation of any

subscription funds or assessments, or contribute thereto, for any political party or purpose.

(b) An employee shall not be connected with any political campaign or political management, except to cast his vote and to express his personal opinion privately.

12. Arkansas Code Ann. § 14-50-306 provides:

(a) No employee in any department affected by this chapter shall engage in the solicitation of any subscription funds or assessments, or contribute thereto, for any political party or purpose.

(b) An employee shall not be connected with any political campaign or political management except to cast his vote and to express his personal opinion privately.

13. Arkansas Code Ann. § 16-90-112(b) provides:

Every person convicted of bribery or felony shall be excluded from every office of trust or profit and from the right of suffrage in this state.



## APPENDIX G

**EXAMPLES OF OTHER STATES'  
ELECTION LAWS****1. Eligibility To Vote**

**Mississippi** Const., Art. 12, § 250, provides:

All qualified electors and no others shall be eligible to office, except as otherwise provided in this Constitution; provided, however, that as to an office where no other qualification than that of being a qualified elector is provided by this Constitution, the legislature may, by law, fix additional qualifications for such office.

**Nevada** Const., Art. 15, § 3, provides:

Eligibility for public office.

No person shall be eligible to any office who is not a qualified elector under this constitution.

[See also requirements of voter eligibility at pages 57a-67a, *infra*.]

**2. District Residency**

**Idaho** Code § 34-1904 provides:

All candidates for election as representatives in Congress shall be residents of the congressional district from which they seek such election.

**Nevada** Rev. Stat. § 293.1755 provides:

Residence requirements for candidates: Additional requirement; penalties; exception.

1. In addition to any other requirement provided by law, no person may be a candidate for any office

unless, for at least 30 days before the close of filing of declarations of candidacy, acceptances of candidacy or affidavits of candidacy for the office which he seeks, he has been a legal resident of the state, district, county, township, city or other area prescribed by law to which the office pertains and, if elected, over which he will have jurisdiction or which he will represent. . . .

**North Carolina** Gen. Stat. § 163-106 provides:

. . . (f) Candidates required to file their notice of candidacy with the State Board of Elections under subsection (c) of this section shall file along with their notice a certificate signed by the chairman of the board of elections or the supervisor of elections of the county in which they are registered to vote, stating that the person is registered to vote in that county, . . . .

### **3. Durational Residency**

**Arizona** Rev. Stat. Ann. § 16-311 provides:

A. Any person desiring to become a candidate at a primary election for a political party and to have his name printed on the official ballot shall be a qualified elector of such party.

\* \* \* \*

E. The nomination paper of a candidate for the office of United States senator, or representative in Congress or for a state office, including a member of the legislature, or for any other office for which the electors of the entire state or a subdivision of the state greater than a county are entitled to vote, shall be filed with the secretary of state no later than five o'clock p.m. on the last date for filing.

\* \* \* \*

**Arizona** Rev. Stat. Ann. § 16-101 provides:

Qualifications of registrant; definition.

A. Every resident of the state is qualified to register to vote if he:

\* \* \* \*

3. Will have been a resident of the state twenty-nine days next preceding the election, except as provided in § 16-126. . . .

**Colorado** Rev. Stat. § 1-4-802 provides:

Petitions for nominating independent candidates.

(1) Candidates for public offices to be filled at a general or congressional vacancy election who do not wish to affiliate with a political party may be nominated, other than by a primary election or a convention, in the following manner:

\* \* \* \*

(g) No person shall be placed in nomination by petition unless the person is an eligible elector of the political subdivision or district in which the officer is to be elected and unless the person was registered as unaffiliated, as shown on the books of the county clerk and recorder, for at least twelve months prior to the date of filing of the petition; . . . .

**Idaho** Code § 34-604 provides:

. . . (2) No person shall be elected to the office of United States senator unless he has attained the age of thirty (30) years at the time of his election, has been a citizen of the United States at least nine (9) years and shall have resided within the state two (2) years next preceding his election.

(3) Each candidate shall file his declaration of candidacy with the secretary of state. Each declara-

tion shall have attached thereto a petition which shall contain the signatures of one thousand (1000) qualified electors. . . .

**Idaho Code § 34-605** provides:

. . . (2) No person shall be elected to the house of representatives unless he has attained the age of twenty-five (25) years at the time of his election, has been a citizen of the United States at least seven (7) years and shall have resided within the state for two (2) years next preceding his election.

(3) Each candidate shall file his declaration of candidacy with the secretary of state. Each declaration shall have attached thereto a petition which shall contain the signatures of five hundred (500) qualified electors who reside within the congressional district. . . .

#### **4. Disqualifications for Felonies**

**Alaska Stat. § 15.25.030** provides:

(a) A member of a political party who seeks to become a candidate of the party in the primary election shall execute and file a declaration of candidacy. The declaration shall be executed under oath before an officer authorized to take acknowledgements and shall state in substance:

\* \* \*

(10) that the candidate is a qualified voter as required by law;

**Alaska Const., Art. V, § 2** provides:

No person may vote who has been convicted of a felony involving moral turpitude unless his civil rights have been restored. No person may vote who has been judicially determined to be of unsound mind unless the disability has been removed.



**Arizona** Rev. Stat. Ann. § 13-904 provides:

A. A conviction for a felony suspends the following civil rights of the person sentenced:

\* \* \*

2. The right to hold public office of trust or profit.

**Connecticut** Gen. Stat. § 9-46 provides:

Forfeiture of electoral rights

(a) A person shall forfeit his right to become an elector and his privileges as an elector upon conviction of a felony, except that a person convicted of the crime of nonsupport shall not forfeit such right or privileges.

(b) No person who has forfeited and not regained his privileges as an elector, as provided in section 9-46a, may be a candidate for or hold public office.

**Hawaii** Rev. Stat. § 38-831-2 provides:

Rights lost.

(a) A person sentenced for a felony, from the time of the person's sentence until the person's final discharge, may not:

\* \* \*

(2) Become a candidate for or hold public office. . . .

**Missouri** Rev. Stat. § 115.349 provides:

. . . 3. Each declaration of candidacy for nomination in a primary election shall . . . be in substantially the following form:

I, \_\_\_\_\_, a resident and registered voter of the \_\_\_\_\_ precinct of the township of \_\_\_\_\_ . . . .

**Missouri** Rev. Stat. § 115.133 provides:

. . . 2. No person who is adjudged incapacitated shall be entitled to register or vote. No person shall be entitled to vote:

(1) While confined under a sentence of imprisonment;

(2) While on probation or parole after conviction of a felony, until finally discharged from such probation or parole; or

(3) After conviction of a felony or misdemeanor connected with the right of suffrage.

**New Hampshire** Rev. Stat. Ann. § 607-A:2 provides:

**Rights Lost.**

I. A person sentenced for a felony, from the time of his sentence until his final discharge, may not:

\* \* \* \*

(b) Become a candidate for or hold public office. . . .

**New Jersey** Stat. Ann. § 19:13-8 provides:

Acceptance of nomination; annexation of oath of allegiance.

A candidate nominated for an office in a petition shall manifest his acceptance of such nomination by a written acceptance thereof. . . . Such acceptance shall certify that the candidate is a resident of and a legal voter in the jurisdiction of the office for which the nomination is made. . . .

**New Jersey** Stat. Ann. § 19:4-1 provides:

No person shall have the right of suffrage—

\* \* \* \*

(6) Who has been convicted of a violation of any of the provisions of this Title, for which criminal penalties were imposed, if such person was deprived of such right as part of the punishment therefor according to law unless pardoned or restored by law to the right of suffrage; or

(7) Who shall be convicted of the violation of any of the provisions of this Title, for which criminal penalties are imposed, if such person shall be deprived of such right as part of the punishment therefor according to law, unless pardoned or restored by law to the right of suffrage; or

(8) Who is serving a sentence or is on parole or probation as the result of a conviction of any indictable offense under the laws of this or another state or of the United States.

**North Carolina Gen. Stat. § 163-106 provides:**

(a) Notice and Pledge.—No one shall be voted for in a primary election unless he shall have filed a notice of candidacy . . . in the following form:

. . . I affiliate with the \_\_\_\_\_ party,  
(and I certify that I am now registered on the registration records of the precinct in which I reside as an affiliate of the \_\_\_\_\_ party.)

I pledge that if I am defeated in the primary, I will not run for any office as a write-in candidate in the next general election. . . .

**North Carolina Gen. Stat. § 163-55 provides:**

The following classes of persons shall not be allowed to register or vote in this State:

\* \* \* \*

(2) Any person adjudged guilty of a felony against this State or the United States, or adjudged guilty of a felony in another state that also would be a felony if it had been committed in this State, unless that person shall be first restored to the rights of citizenship in the manner prescribed by law.

**Ohio Rev. Code Ann. § 2961.01** provides:

A person convicted of a felony under the laws of this or any other state or the United States, unless his conviction is reversed or annulled, is incompetent to be an elector or juror, or to hold an office of honor, trust, or profit. . . .

**West Virginia Code § 3-5-7** provides:

Any person who is eligible to hold and seek to hold an office or political party position to be filled by election in any primary or general election held under the provisions of this chapter shall file a certificate of announcement declaring as a candidate for the nomination or election to such office.

\* \* \*

(b) The certificate of announcement shall be in a form . . . on which the candidate shall make a sworn statement . . . containing the following information:

\* \* \*

(4) The county of residence and a statement that the candidate is a legally qualified voter of that county; . . . .

**West Virginia Code § 3-1-3** provides:

. . . But no person who has not been registered as a voter as required by law, or who is a minor, or of unsound mind, or who is under conviction of treason, felony or bribery in an election, or who is not a bona fide resident of the state, county or municipality in which he offers to vote, shall be permitted to vote at such election while such disability continues.

### **5. Disqualifications for Particular Offenses**

**Alabama Code § 17-16-12** provides:

The name of no candidate shall be printed upon any official ballot used at any primary election unless



such person is legally qualified to hold the office for which he is a candidate and unless he is eligible to vote in the primary election in which he seeks to be a candidate. . . .

**Alabama Const., Art. VIII, § 182, provides:**

The following persons shall be disqualified both from registering, and from voting, namely:

All idiots and insane persons; those who shall by reason of conviction of crime be disqualified from voting at the time of the ratification of this Constitution; those who shall be convicted of treason, murder, arson, embezzlement, malfeasance in office, larceny, receiving stolen property, obtaining property or money under false pretenses, perjury, subornation of perjury, robbery, assault with intent to rob, burglary, forgery, bribery, assault and battery on the wife, bigamy, living in adultery, sodomy, incest, rape, miscegenation, crime against nature, or any crime punishable by imprisonment in the penitentiary, or of any infamous crime or crime involving moral turpitude; also, any person who shall be convicted as a vagrant or tramp, or of selling or offering to sell his vote or the vote of another, or of buying or offering to buy the vote another, or of making or offering to make a false return in any election by the people or in any primary election to procure the nomination or election of any person to any office, or of suborning any witness or register to secure the registration of any person as an elector.

**Kentucky Rev. Stat. Ann. § 121A.990(1)(a) provides:**

Any slate of candidates, authorized treasurer, or any other individual who knowingly violates the expenditure limitations imposed by KRS 121A.030 or the contribution limitations imposed by KRS 121A.050, knowing misuses any transfers from the fund in violation of KRS 121A.110, or knowingly falsifies any record required to be submitted or re-

tained by the slate under this chapter shall be guilty of a Class D felony, and shall be disqualified from being appointed to or becoming a candidate for public office, or holding public office, for a period of five (5) years from the date of final judicial determination of guilt.

**Michigan Comp. Laws § 168.91 provides:**

**United States senator; eligibility**

A person shall not be a United States senator unless the person has attained the age of 30 years and has been a citizen of the United States for 9 years, and is, when elected, an inhabitant of that state for which he or she shall be chosen as provided in section 3 of article 1 of the United States constitution. A person who has been convicted of a violation of section 12a(1) of Act No. 370 of the Public Acts of 1941, being section 38.412a of the Michigan Compiled Laws, shall not be eligible to the office of United States senator for a period of 20 years after conviction.

**Michigan Comp. Laws § 168.131 provides:**

**Representative in Congress; eligibility**

A person shall not be a representative unless the person has attained the age of 25 years and been a citizen of the United States for 7 years, and is, when elected, an inhabitant of that state in which he or she shall be chosen, as provided in section 2 of article 1 of the United States Constitution. A person who has been convicted of a violation of section 12a(1) of Act No. 370 of the Public Acts of 1941, being section 38.412a of the Michigan Compiled Laws, shall not be eligible to the office of representative in congress for a period of 20 years after conviction.

**Michigan** Comp. Laws § 38.412a provides:

(1) A member or employee of a county civil service commission or an officer or employee of a county which has adopted this act, being Act. No. 370 of the Public Acts of 1941, shall not provide a copy of the examination given to applicants for appointments to the classified service pursuant to section 12 or a copy of the answers to the examination to an applicant or other person who is not a member or employee of the county civil service commission before the examination is held. . . .

(2) An applicant for appointment to the classified service shall not possess a copy of the examination given to applicants for appointment to the classified service pursuant to section 12 or the answers to the examination, prior to the time the examination is given. A person who violates this subsection is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$1,000.00, or both. . . .

**Mississippi** Const., Art. 12, § 250, provides:

All qualified electors and no others shall be eligible to office, except as otherwise provided in this Constitution; provided, however, that as to an office where no other qualification than that of being a qualified elector is provided by this Constitution, the legislature may, by law, fix additional qualifications for such office.

**Mississippi** Code Ann. § 23-15-19 provides:

Any person who has been convicted of any crime listed in Section 241, Mississippi Constitution of 1890, shall not be registered, or if registered the name of such person shall be erased from the registration book on which it may be found by the registrar or by the election commissioners.

**Rhode Island Gen. Laws § 17-23-4 provides:**

Fraudulent or repeat voting.

Every person who in any election shall fraudulently vote or attempt to vote, not being qualified notwithstanding that person's name may be on the voting list at the polling place where the person shall vote or attempt to vote; . . . or who shall aid, counsel, or procure any other person to so vote or attempt to vote, shall be guilty of a felony, and no person after conviction of such an offense shall be permitted to vote in any election or upon any proposition pending before the people, or to hold any public office. . . .

**Rhode Island Gen. Laws § 17-23-5 provides:**

Bribery or intimidation of voters—Immunity of witnesses in bribery trials.

Every person who shall directly or indirectly give, or offer to agree to give, to any elector or to any person for the benefit of any elector, any sum of money or other valuable consideration for the purpose of inducing the elector to give in or withhold that elector's vote at any election in this state, or by way of reward for having voted or withheld that elector's vote, or who shall use any threat or employ any means of intimidation for the purpose of influencing the elector to vote or withhold that elector's vote for or against any candidate or candidates or proposition pending at an election, shall be guilty of a felony, and no person after conviction of such an offense shall be permitted to vote in any election or upon any proposition pending before the people, or to hold any public office; . . . .

## **6. Disqualifications for Mental Incompetency**

**Arizona Rev. Stat. Ann. § 16-311 provides:**

A. Any person desiring to become a candidate at a primary election for a political party and to have



his name printed on the official ballot shall be a qualified elector of such party. . . . A candidate for public office shall be a qualified elector at the time of filing and shall reside in the county, district or precinct which he proposes to represent. . . .

\* \* \* \*

C. The nomination paper of a candidate for the office of presidential elector, United States senator, representative in Congress or for a state office, including a member of the legislature, or for any other office for which the electors of the entire state or a subdivision of the state greater than a county are entitled to vote, shall be filed with the secretary of state no later than five o'clock p.m. on the last date for filing. . . .

**Arizona Rev. Stat. Ann. § 16-101 provides:**

Qualifications of registrant; definition.

A. Every resident of the state is qualified to register to vote if he:

\* \* \* \*

6. Has not been adjudicated an incapacitated person as defined in § 14-5101. . . .

**New Jersey Stat. Ann. § 19:13-8 provides:**

A candidate nominated for an office in a petition shall manifest his acceptance of such nomination by a written acceptance thereof, signed by his hand, upon or annexed to such petition, to which shall be annexed the oath of allegiance prescribed in section 41:1-1 of the Revised Statutes. . . . Such acceptance shall certify that the candidate is a resident of and a legal voter in the jurisdiction of the office for which the nomination is made. . . .

**New Jersey Stat. Ann. § 19:4-1** provides:

No person shall have the right of suffrage—

(1) Who is an idiot or is insane; . . . .

**North Dakota Cent. Code § 44-01-01** provides:

Eligibility to office.

Every elector is eligible to the office for which he is an elector, except when otherwise specially provided. No person is eligible who is not such an elector.

**North Dakota Const., Art. 2, § 2**, provides:

No person who has been declared mentally incompetent by order of a court or other authority having jurisdiction, which order has not been rescinded, shall be qualified to vote. No person convicted of a felony shall be qualified to vote until his or her civil rights are restored.

## 7. Prohibitions of Dual Candidacy

**Alaska Stat. § 15.25.030(a)** provides:

A member of a political party who seeks to become a candidate of the party in the primary election shall execute and file a declaration of candidacy. The declaration shall be executed under oath before an officer authorized to take acknowledgments and shall state in substance:

\* \* \*

(14) that the person is not a candidate for any other office to be voted on at the primary or general election and that the person is not a candidate for this office under any other declaration of candidacy or nominating petition;

. . . .

**California Elec. Code § 6402** provides:

\* \* \*

(b) No person may file nomination papers for a party nomination and an independent nomination for the same office, or for more than one office at the same election.

**Georgia Code Ann. § 21-2-136** provides:

No person shall be nominated, nor shall any person be a candidate in a primary or election, for more than one of the following public offices to be filled at any one election: Governor, Lieutenant Governor, Secretary of State, Attorney General, State School Superintendent, Commissioner of Insurance, Commissioner of Agriculture, Commissioner of Labor, United States senator or representative in Congress, Public Service Commissioner, Justice of the Supreme Court, Judge of the Court of Appeals, judge of the probate court, clerk of the superior court, tax commissioner, tax collector, sheriff, judge of the superior court, county treasurer, county school superintendent, tax receiver, and members of the Senate and House of Representatives of the General Assembly.

**Maine Rev. Stat. Ann., tit. 21-A, § 331(3)**, provides:

The following limitations apply to all candidates for nominations.

A. A person may not file, whether by primary election or nomination petition, as a candidate for more than one federal, state or county office at any election, except for a candidate for membership in a county charter commission under section 351, subsection 3. . . .

**Oklahoma Stat. § 26-5-106** provides:

Candidates may file for no more than one office at any election.

**South Dakota Cod. Laws § 12-6-3** provides:

No person shall be a candidate for nomination to more than one public office. . . .

**West Virginia Code § 3-5-7(e)** provides:

No person shall be a candidate for more than one office or office division at any election. . . .

## **8. Disqualifications of State Officials and Employees**

**Alabama Code § 36-26-38** provides:

. . . No employee in the classified service shall be a member of any national, state or local committee of a political party or an officer of a partisan political club or a candidate for nomination or election to any public office or shall take any part in the management or affairs of any political party or in any political campaign, except on his personal time and to exercise his right as a citizen privately to express his opinion and to cast his vote; . . . .

**Alaska Stat. § 39.25.160** provides:

. . . (e) An employee in the classified or partially exempt service who seeks nomination or becomes a candidate for state or national elective political office shall immediately resign any position held in the state service. The employee's position becomes vacant on the date the employee files a declaration of candidacy for state or national elective office. . . .

**Arizona Const., Art. XXII, § 18,** provides:

Except during the final year of the term being served, no incumbent of a salaried elective office, whether holding by election or appointment, may offer himself for nomination or election to any salaried local, State or federal office.



**Arizona Rev. Stat. Ann. § 41-772 provides:**

. . . B. An employee or member of the personnel board shall not be a member of any national, state or local committee of a political party, an officer or chairman of a committee of a partisan political club, or a candidate for nomination or election to any paid public office, shall not hold any paid, elective public office . . . .

**Ohio Code § 67-5311 provides:**

(1) No classified employee of a state department covered by this act shall:

\* \* \* \*

'c) Be a candidate and hold elective office in any partisan election. . . .

**Indiana Code § 4-15-2-40 provides:**

. . . [A]ny employee in the classified service who is elected to a state or federal public office shall be considered to have resigned from the service.

**Kansas Stat. Ann. § 19-4330 provides:**

(a) No officer, agent, clerk or employee of this state shall directly or indirectly use his authority or official influence to compel any officer or employee covered by the provisions of this act to apply for membership in or become a member of any organization, or to pay or promise to pay any assessment, subscription or contribution, or to take part in any political activity. . . .

(b) Any officer or employee covered by the provisions of this act shall resign from the service upon filing as a candidate for public office.

**Kansas Stat. Ann. § 75-2953 provides:**

. . . . (b) Any officer or employee in the state classified service shall resign from the service upon filing as a candidate for an elective office, unless the elective office filed for is a township elective office, a county elective office, an elective office in the judicial branch of government or is elected on a non-partisan basis. . . .

**Kentucky Rev. Stat. Ann. § 18A.140 provides:**

. . . (4) No employee in the classified service or member of the board or its executive director shall be a member of any national, state, or local committee of a political party, or an officer or member of a committee of a partisan political club, or a candidate for nomination or election to any paid public office. . . .

**Louisiana Const., Art. X, § 9, provides:**

. . . No member of a civil service commission and no officer or employee in the classified service shall participate or engage in political activity; be a candidate for nomination or election to public office except to seek election as the classified state employee serving on the State Civil Service Commission; . . .

**Louisiana Rev. Stat. Ann. § 42:39 provides:**

A. After July 31, 1968, no person serving in or elected or appointed to the office of judge of any court, justices of the peace excepted, shall be eligible to hold or become a candidate for any national, state or local elective office of any kind whatsoever, including any national, state or local office in any political party organization, other than a candidate for the office of judge for the same or any other court.

B. The provisions of Subsection (A) of this section shall not be construed as prohibiting any person from resigning from his office as judge of any court for the purpose of becoming a candidate for nomination or election to any national, state or local elective office for which he is qualified and eligible; provided, however, that the resignation of any such person shall be and is made not less than twenty-four hours prior to the date on which he qualifies as a candidate for nomination or election to the office to which he seeks nomination or election.

C. If any judge elected or appointed, justice of the peace excepted, qualifies for any other elective position, other than those allowed by the provisions of this section, without complying with the provisions of Subsection (B) set forth above, his qualification as a candidate for the other office shall ipso facto be null and void.

**North Carolina Gen. Stat. § 163-125 provides:**

(a) No individual may qualify as a candidate for elective public office who holds another elective office, whether State, district, county or municipal, more than 40 days of the term of which runs concurrently with the term of office for which he seeks to qualify without resigning from such office prior to the last day of qualifying for the office he intends to seek. Said resignation shall be effective on or before the last day of qualifying. . . .

(e) This section does not apply to persons holding any elective federal office, nor does it apply to persons holding the office of judge or justice in the General Court of Justice who seek another office as a judge or justice in the General Court of Justice. . . .

**Ohio Rev. Code Ann. § 124.57** provides:

. . . [N]or shall any officer or employee in the classified service of the state, the several counties, cities, and city school districts thereof, and civil service townships, be an officer in any political organization or take part in politics other than to vote as he pleases and to express freely his political opinions.

**Oklahoma Stat., tit. 19, § 215.8**, provides:

The district attorney shall be ineligible to be a candidate for any office which has a term any portion of which is the same as the term for which he was elected.

**Texas Const. Art. XVI, § 65**, provides:

The following officers elected at the General Election in November, 1954, and thereafter, shall serve for the full terms provided in this Constitution:

(a) District Clerks; (b) County Clerks; (c) County Judges; (d) Judges of the County Courts at Law, County Criminal Courts, County Probate Courts and County Domestic Relations Courts; (e) County Treasurers; (f) Criminal District Attorneys; (g) County Surveyors; (h) Inspectors of Hides and Animals; (i) County Commissioners for Precincts Two and Four; (j) Justices of the Peace. . . .

Provided, however, if any of the officers named herein shall announce their candidacy, or shall in fact become a candidate, in any General, Special or Primary Election, for any office or profit or trust under the laws of this State or the United States other than the office then held, at any time when the unexpired term of the office then held shall ex-



ceed one (1) year, such announcement or such candidacy shall constitute an automatic resignation of the office then held, and the vacancy thereby created shall be filled pursuant to law in the same manner as other vacancies for such office are filled.

**West Virginia Code § 29-6-20 provides:**

(e) Notwithstanding any other provision of this code, no employee in the classified service shall:

\* \* \*

(3) Be a candidate for any national or state paid public office or court of record; or hold any paid public office; . . .

## 9. Typical Primary Laws

**Connecticut Gen. Stat. § 9-379 provides:**

Eligibility for placing on ballot.

No name of any candidate shall be printed on any official ballot at any election except the name of a candidate nominated by a major or minor party unless a nominating petition for such candidate is approved by the secretary of the state as provided in sections 9-453a to 9-453p, inclusive.

**Indiana Code § 3-8-7-25 provides:**

Nominees entitled to have names on ballot.

The state election board and each county election board shall have printed on the respective general or municipal election ballots the names of the following candidates:

(1) Nominees chosen at a primary election under IC 3-10 and certified as required by this chapter.

(2) Nominees chosen by a convention of a political party in the state whose candidate received at least two percent (2%) of the total vote cast for secretary of state at the last election and certified under section 8 of this chapter.

(3) Nominees nominated by petition under IC 3-8-6.

**Indiana Code § 3-8-2-8** provides:

(a) A declaration of candidacy for the office of United States Senator or for the office of governor must be accompanied by a petition signed by at least five thousand (5,000) voters of the state, including at least five hundred (500) voters from each congressional district. . . .

**Kansas Stat. Ann. § 25-202(a)** provides:

Except as otherwise provided in subsection (b) all candidates for national, state, county and township offices shall be nominated by: (1) a primary election held in accordance with article 2 of chapter 25 of the Kansas Statutes Annotated and amendments thereto; or (2) independent nomination petitions signed and filed as provided by existing statutes. . . .

**Wyoming Stat. § 22-5-101** provides:

Nominations of candidates for all offices filled at a general election, except school and community college district offices and special district offices, may be made by primary election, by petition for nomination as an independent candidate as provided in W.S. 22-5-301 through 22-5-308 or by convention as provided in W.S. 22-4-303 and 22-4-406.

## **10. Non-Affiliation Requirements**

**California Election Code § 6401** provides:

(a) No declaration of candidacy for a partisan office or for membership on a county central com-

mittee shall be filed, by a candidate unless (1) at the time of presentation of the declaration and continuously for not less than three months immediately prior to that time, or for as long as he has been eligible to register to vote in the state, the candidate is shown by his affidavit of registration to be affiliated with the political party the nomination of which he seeks, and (2) the candidate has not been registered as affiliated with a qualified political party other than that political party the nomination of which he seeks within 12 months, or, in the case of an election governed by Chapter 7 (commencing with Section 7200), within three months immediately prior to the filing of the declaration.

(b) The county clerk shall attach a certificate to the declaration of candidacy showing the date on which the candidate registered as intending to affiliate with the political party the nomination of which he seeks, and indicating that the candidate has not been affiliated with any other qualified political party for the period specified in subdivision (a). . . .

**Kentucky Rev. Stat. Ann. § 118.315 provides:**

(1) A candidate for any office to be voted for at any regular election may be nominated by a petition of electors qualified to vote for him, complying with the provisions of subsection (2) of this section. No person who is a registered member of a political party shall be eligible to election as an independent candidate, nor shall any person be eligible to election as an independent candidate who was a registered member of a political party at the time of the last preceding regular election.

**Kansas Stat. Ann. § 25-303 provides:**

(b) All nominations other than party nominations shall be independent nominations. No person who has declared and retains a party affiliation in accordance with K.S.A. 25-3301 and amendments thereto

shall be eligible to accept an independent nomination for any office. . . .

**North Carolina Stat. § 163-106** provides:

. . . (b) . . . No person shall be permitted to file as a candidate in a primary if, at the time he offers to file notice of candidacy, he is registered on the appropriate registration book or record as an affiliate of a political party other than that in whose primary he is attempting to file. . . .

**Ohio Rev. Code § 3513.191** provides:

**Qualification.**

No person shall be a candidate for nomination or election at a party primary if he voted as a member of a different political party at any primary election within the current year and the next preceding two calendar years.

## **11. Affiliation Requirements**

**Alabama Code § 17-16-12** provides:

The name of no candidate shall be printed upon any official ballot used at any primary election unless such person is legally qualified to hold the office for which he is a candidate and unless he is eligible to vote in the primary election in which he seeks to be a candidate and possesses the political qualifications prescribed by the governing body of his political party.

**Alaska Stat. § 15.25.030(a)** provides:

A member of a political party who seeks to become a candidate of the party in the primary election shall execute and file a declaration of candidacy. The declaration shall be executed under oath before an officer authorized to take acknowledgments and shall state in substance:

\* \* \* \*



(16) that the candidate is registered to vote as a member of the political party whose nomination is being sought. . . .

**Colorado Rev. Stat. § 1-4-101** provides:

. . . (3) All nominations by political parties for candidates for United States senator, representative in congress, all elective state, district, and county officers, and members of the general assembly shall be made by primary elections. Neither the secretary of state nor any county clerk and recorder shall place on the official general election ballot the name of any person as a candidate of any political party who has not been nominated in accordance with the provisions of this article, or who has not been affiliated with the political party for at least twelve months unless otherwise provided by law, or who does not meet residency requirements for the office, if any. . . .

**Florida Stat. ch. 99.021(b)** provides:

(b) In addition, any person seeking to qualify for nomination as a candidate of any political party shall, at the time of subscribing to the oath or affirmation, state in writing:

1. The party of which he is a member.
2. That he is not a registered member of any other political party and has not been a candidate for nomination for any other political party for a period of 6 months preceding the general election for which he seeks to qualify. . . .

**Maryland Code Ann., Art. 33, § 4A-1(a)**, provides:

Each person seeking nomination to any public or party office at a primary election shall file a certificate of candidacy for nomination in the manner and at the time provided in this subtitle. . . . A candidate for any federal, State, local or party office shall be

affiliated with the party whose nomination or office he seeks. . . .

## 12. Filing Fees

**Alaska Stat. § 15.25.050(a)** provides:

At the time the declaration is filed, each candidate shall pay a nonrefundable filing fee to the director. The filing fee for candidates for office of governor, lieutenant governor, United States senator, and United States representative is \$100. The filing fee for candidates for office of state senator and state representative is \$30. . . .

**California Election Code § 6552** provides:

Filing fees; salary

(a) The following fees for filing declarations of candidacy shall be paid to the Secretary of State by each candidate:

(1) Two percent of the first-year salary for the office of United States Senator or for any state office. The fee prescribed in this subdivision does not apply to the office of State Senator, Assemblyman, member of the Board of Equalization, or justice of the court of appeal.

(2) One percent of the first-year salary for the office of Representative in Congress, member of the Board of Equalization, or justice of the court of appeal. . . .

**Minnesota Stat. § 204B.11** provides:

. . . [A] filing fee shall be paid by each candidate who files an affidavit of candidacy. The fee shall be paid at the time the affidavit is filed. The amount of the filing fee shall vary with the office sought as follows:

(a) for the office of governor, lieutenant governor, attorney general, state auditor, state treasurer,

secretary of state, representative in congress, judge of the supreme court, judge of the court of appeals, judge of the district court, or judge of the county municipal court of Hennepin county, \$300;

(b) for the office of senator in congress, \$400;

(c) for office of senator or representative in the legislature, \$100; . . .

**Nevada Rev. Stat. § 293.193** provides:

1. Fees as listed in this section for filing declarations of candidacy or acceptances of candidacy must be paid to the filing officer by cash, cashier's check or certified check.

United States Senator . . . . .	\$500
Representative in Congress . . . . .	300
Governor . . . . .	300
Justice of the supreme court . . . . .	300
Any state office, other than governor or justice of the supreme court . . . . .	200

**Oregon Rev. Stat., tit. 23, § 249.056** provides:

Filing fees.

(1) At the time of filing a declaration of candidacy a candidate for the following offices shall pay to the officer with whom the declaration is filed the following fee:

(a) United States Senator, \$150.

(b) Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the Bureau of Labor and Industries, Superintendent of Public Instruction, Representative in Congress, judge of the Supreme Court, Court of Appeals or Oregon Tax Court, or executive officer or auditor of a metropolitan service district, \$100. . . .

### 13. "Spoiler" Laws.

**Colorado** Rev. Stat. § 1-4-105 provides:

Defeated candidate ineligible

No person who has been defeated as a candidate in a primary election shall be eligible for election to the same office by ballot or as a write-in candidate in the next general election unless the party vacancy committee nominates that person.

**Georgia** Code Ann. § 21-2-133(d) provides:

No person shall be eligible as a write-in candidate in a general or special election if such person was a candidate for nomination or election to the same office in the immediately preceding primary. . . .

**Idaho** Code § 34-704 provides:

. . . Candidates who file a declaration of candidacy under a party name and are not nominated at the primary election shall not be allowed to appear on the general election ballot under any other political party name, nor as an independent candidate.

**Illinois** Ann. Stat., ch. 10, § 5/10-2, provides:

. . . A candidate for whom a nomination paper has been filed as a partisan candidate at a primary election, and who is defeated for his or her nomination at the primary election, is ineligible for nomination as a candidate of a new political party for election in that general election.

**Illinois** Ann. Stat., ch. 10, § 5/10-3(4), provides:

. . . A candidate for whom a nomination paper has been filed as a partisan candidate at a primary election, and who is defeated for his or her nomination at the primary election, is ineligible to be placed on the ballot as an independent candidate for election in that general or consolidated election.

A candidate seeking election to an office for which candidates of political parties are nominated by caucus who is defeated for his or her nomination at such caucus, is ineligible to be listed on the ballot at that general or consolidated election as an independent candidate.

**Illinois Ann. Stat., ch. 10, § 5/17-16.1** provides:

. . . A candidate for whom a nomination paper has been filed as a partisan candidate at a primary election, and who is defeated for his or her nomination at the primary election is ineligible to file a declaration of intent to be a write-in candidate for election in that general or consolidated election.

A candidate seeking election to an office for which candidates of political parties are nominated by caucus who is a participant in the caucus and who is defeated for his or her nomination at such caucus is ineligible to file a declaration of intent to be a write-in candidate for election in that general or consolidated election.

A candidate seeking election to an office for which candidates are nominated at a primary election on a nonpartisan basis and who is defeated for his or her nomination at the primary election is ineligible to file a declaration of intent to be a write-in candidate for election in that general or consolidated election. . . .

**Indiana Code § 3-8-1-5.5(a)** provides:

Except as provided in IC 3-13-1-19 and IC 3-13-2-10 for filling a vacancy on a ticket, a person who:

(1) is defeated in a primary election; or

(2) appears as a candidate for nomination at a state convention or files a declaration of



candidacy for nomination by a town convention and is defeated;

is not eligible to become a candidate for the same office in the next general or municipal election.

**Kansas Stat. Ann. § 25-202(c)** provides:

No candidate for any national, state, county or township office shall file for office as a partisan candidate in a primary election and also file for office as an independent candidate for any national, state, county or township office in the general election immediately following.

**Kentucky Rev. Stat. Ann. § 118.345(1)** provides:

(1) No candidate who has been defeated for the nomination for any office in a primary election shall have his name placed on voting machines in the succeeding regular election as a candidate for the same office for the nomination to which he was a candidate in the primary election. . . .

**Maryland Code Ann., Art. 33, § 8-2**, provides:

Name of defeated primary candidate not to be printed on general ballot.

(a) No person who has been defeated for the nomination for any office in a primary election . . . shall have his name printed on the ballot at the succeeding general election as a candidate for any office. Nothing in this subsection shall be interpreted as being applicable to candidates for nomination of their party for President of the United States who have been defeated in a Presidential preference primary election. . . .

**Nebraska Rev. Stat. § 32-516** provides:

. . . No candidate defeated at the primary elections shall be permitted to file by petition in the general

election next following and this provision shall include candidates in counties and cities as well as candidates for nonpolitical offices.

**New Hampshire** Rev. Stat. Ann. § 659:91-a provides:

**Candidate of One Party**

I. Any person who is a candidate on any party's state primary election ballot shall not run as the nominee of a different party in the state general election unless he is successful in securing the nomination of his own party in the primary. Any person who runs as a candidate on any party's state primary election ballot and who is not chosen as the candidate for that party for the elective office for which he was a candidate shall not under any circumstances run as the nominee of a different party in the state general election. . . .

**New Mexico** Stat. Ann. § 8-1-8-19 provides:

If a person has been a candidate for the nomination of a major political party in the primary election, he shall not have his name printed on the ballot at the next succeeding general election except under the party name of the party designated on his declaration of candidacy filed for such primary election.

**North Carolina** Gen. Stat. § 163-123(e) provides:

(e) **Defeated Primary Candidate.**—No person whose name appeared on the ballot in a primary election preliminary to the general election shall be eligible to have votes counted for him as a write-in candidate for the same office in that year.

**Ohio** Rev. Code Ann. § 3513.04 provides:

No person who seeks party nomination for an office or position at a primary election by declaration of candidacy shall be permitted to become a

candidate at the following general election for any office by nominating petition or by write-in.

**Oregon Rev. Stat., tit. 23, § 249.048** provides:

No candidate for nomination of a major political party to a public office who fails to receive the nomination shall be entitled to be the candidate of any other political party or to become an independent candidate for the same office at the succeeding general election. The filing office shall not certify the name of such a candidate.

**South Carolina Code Ann. § 7-11-10** provides:

Nominations for candidates for the offices to be voted on in a general or special election may be by political party primary, by political party convention or by petition; provided, no person who was defeated as a candidate for nomination to an office in a party primary or party convention shall have his name placed on the ballot for the ensuing general or special election. . . .

**South Dakota Cod. Laws § 12-7-5** provides:

No person shall file a certificate of nomination pursuant to § 12-7-1 for an office for which he has been a candidate in the primary election of the same year.

**Tennessee Code Ann. § 2-5-101(f)** provides:

. . . (3) No person defeated in a primary election shall qualify as an independent for the general election.

(4) No candidate in a party primary election may appear on the ballot in a general election as the nominee of a different political party, or as an independent. . . .

#### **14. Loyalty and State Oaths**

**Hawaii** Rev. Stat. § 2-12-7, provides:

The name of no candidate for any office shall be printed upon any official ballot, in any election, unless the candidate shall have taken and subscribed to the following written oath or affirmation, and filed the oath with the candidate's nomination papers.

The written oath or affirmation shall be in the following form:

"I, \_\_\_\_\_, do solemnly swear and declare, on oath that if elected to office I will support and defend the Constitution and laws of the United States of America, and the Constitution and laws of the State of Hawaii. . . .

**Illinois** Ann. Stat., ch. 10, § 5/7-10.1 provides:

Each petition or certificate of nomination shall include as part thereof, a statement for each of the candidates filing, or in whose behalf the petition or certificate of nomination is filed, said statement shall be subscribed and sworn to by such candidate or nominee before some officer authorized to take acknowledgment of deeds in this State and shall be in substantially the following form: . . .

I, \_\_\_\_\_ do swear that I am citizen of the United States and the State of Illinois, that I am not affiliated directly or indirectly with any communist organization or any communist front organization, or any foreign political agency, party, organization or government which advocates the overthrow of constitutional government by force or other means not permitted under the Constitution of the United States or the Constitution of this State; that I do not directly or indirectly teach or advocate the overthrow of the government of the United States or of this State or any unlawful change in the form of the

governments thereof by force or any unlawful means. . . .

**Pennsylvania Stat. Ann., tit. 25, § 2938.1** provides:

Every person nominated at any primary election as the candidate of any political party for any office, . . . who has not filed the loyalty oath required by section 14, act of December 22, 1951 (P.L. 1726), known as the "Pennsylvania Loyalty Act", . . . shall . . . file such oath . . . at least eighty-five (85) days previous to the day of the general or municipal election at which such candidate's name would appear on the ballot. Failure to pay such fee or file such oath within the time herein prescribed shall result in a vacancy in such party nomination. . . .